

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2005170

Variance

Hearing Date:

May 10, 2006 (Continued from April 12, 2006)

Agenda Item:

16

Supervisory District:

3

*Indicates revisions or new information since the December 14, 2005 hearing date.

Applicant/Owner:

Rosalie Sanzone

Request:

Variances to permit:

- 1) An existing detached accessory structure (horse shade) to setback 5 feet from the side (south) property line where 30 feet is the minimum required,
- 2) An existing detached accessory structure (storage building/garage) to setback 5 feet from the side (south) property line where 30 feet is the minimum required; and
- 3) An existing detached accessory structure (shed) to setback 4 feet from the side (north) property line where 30 feet is the minimum required in the Rural-43 zoning district.

These variances are requested from the following Zoning Ordinance Section(s):

Section 503, Article 503.4.2

Site Location:

31633 North 44th Street – 44th Street and Lone Mountain Road (North Phoenix area)

Site Size:

43,866 square feet (1.0 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition: Three letters of support had been received at the time this report was written. No opposition is known.

Staff

Recommendation: Deny

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Single-family residence
South: Single-family residence
East: Single-family residence
West: 44th Street/single-family residence

Background:

3. **January 10, 1990:** Parcel 211-35-010A was split to create two parcels, **211-35-010G** and -010H.
4. **May 4, 1992:** Parcel 211-35-010G was split to create two parcels, 211-35-010K and -**010L** (subject parcel).
5. **Circa 1992:** The primary residence was built under permit number **92-0010**.
6. **February 26, 1999:** The current owner took title to the subject property via a Warranty Deed recorded under docket number **99-0191208**.
7. **September 29, 2005:** The applicant submitted for permits to build a pool and a pool barrier (**B200513916** and **B200513917**).
8. **November 7, 2005:** The applicant applied for this variance request.
- *9. **December 14, 2005:** Variance case **BA2005170** was denied by the Board of Adjustment.

- *10. **January 11, 2006:** The applicant's legal counsel requested the Board of Adjustment rehear this case. The Board of Adjustment voted 3-0 to rehear the case.
- *11. **February 6, 2006:** This case was continued to the March 8, 2006 hearing date due to a lack of quorum.
- *12. **March 8, 2006:** This case was continued to the April 12, 2006 hearing date.
- *13. **April 12, 2006:** This case was forwarded to the May 10, 2006 hearing date due to a lack of quorum.

Findings:

- 14. **Maricopa County Department of Transportation:** No response at the time this report was written.
- 15. **Flood Control District:** No response at the time this report was written.
- 16. **Environmental Services Department:** No objection to these requests (see attached memo).

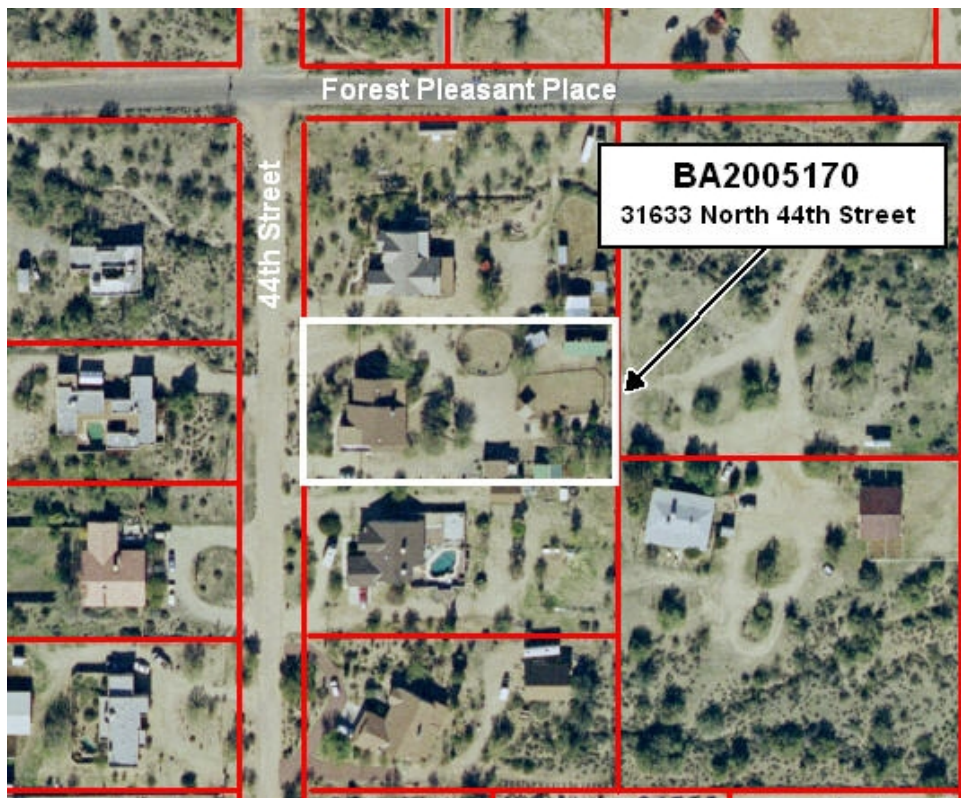
Site Analysis:

- 17. The subject property is located approximately 970 feet north of Lone Mountain Road, 210 feet south of Forest Pleasant Place, and fronts on 44th Street. This rectangular shaped property is slightly more than one acre in area, measuring 146 feet wide by 301 feet deep, and has an east/west lot orientation. The site is located in the northeastern portion of the County, near the City of Phoenix corporate limits, and is zoned Rural-43. In addition to the home on the subject site, many of the surrounding homes were built in the 1990s with a scattering of more recent homes built in the general area. The surrounding area is a mix of large lot suburban residential with nearby equestrian properties. There are very few standard sized lots in the general area which is being developed through the lot splitting process.
- *18. Currently, the applicant has a 4,150 square foot, single-family residence, a 750 square foot horse shade, a 368 square foot storage building, a 240 square foot shed, and an 864 square foot covered horse corral on the subject site. There is a graded, gravel private driveway. There is a small on-site wash otherwise the site is level and free from any physical or topographical hardships. The applicant has stated that the wash is one of the reasons for the placement of the horse shade in the side yard setback. The rear of the site is dedicated to equestrian use with the remainder of the site sparsely landscaped with native vegetation or groundcover. The site is enclosed by chain link fencing on the northern, eastern, and southern sides with the front of the lot separated from the rear by a chain link fence located roughly at the middle of the site.

19. Access to the subject site is from 44th Street, a two lane minor arterial that provides access to the area from Lone Mountain Road to the south or Forest Pleasant Road to the north. In this area, portions of Lone Mountain Road are paved, more than 24 feet wide for most of its length, and have a dedicated 80 foot right-of-way. 44th Street is a 24-28 foot graded roadway that runs along the western boundary of the subject site. Cave Creek Road, a major arterial roadway, is located approximately ½ mile to the east of the subject site and can be accessed by either Lone Mountain Road or by Forest Pleasant Road.
20. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	40-feet
Rear Yard Setback	40-feet	174.83-feet
Side Yard Setback	30-feet	4-feet
Street Side Setback	20-feet	n/a
Maximum Height	30-feet/2 stories	18-feet/1 story
Minimum Lot Area	43,560-sq. ft.	43,866-sq. ft.
Minimum Lot Width	145-feet	146-feet
Lot Coverage	15%	14.5%

*Standards indicated in **bold** do not meet minimum base zoning standards.



Aerial view of the subject site and surrounding area.

Land Use Analysis:

21. The subject site is located in a Class 1 County Island in the North Phoenix area in an area that is transitioning from sparsely settled rural homes with equestrian uses, to an area of large-lot, suburban residential character. The subject property is surrounded by a mix of single-family homes that range from a few older ranch homes, to more recent custom-built homes more commonly found in suburban neighborhoods. The subject property and the immediate area is zoned Rural-43. Much of the residential settlement of this area is the result of lot splitting. Many of the surrounding homes have been built recently and overall the area does not follow a consistent pattern of development.
22. Dove Valley Ranch, Ashler Hills Ranch, and Tatum Ranch are large master planned communities located to the north and south of the subject site within the City of Phoenix. Cave Creek Unified School District's Desert Willow Elementary School is located 1,000 feet south of the site.
23. Staff found two variance cases in the surrounding area. These variance requests were in relation to setback issues. The cases are listed below.
 - Case **BA2002026** was for multiple variances to permit: 1) an existing detached accessory structure (tack room) to setback 18 inches from the side (east) property line where 3 feet is the minimum required, 2) an existing building separation distance (tack room/shed) of 5 feet where 15 feet is the minimum required, 3) an existing building separation distance (shed/shed) of 2 feet where 15 feet is the minimum required, 4) an existing detached accessory structure (shed) to setback 18 inches from the side (east) property line where 30 feet is the minimum required, and 5) an existing detached accessory structure (shed) to setback 18 inches from the side (east) property line where 30 feet is the minimum required. Request number one was approved with stipulations. Requests two to five were denied by the Board of Adjustment on June 9, 2004. This property is located approximately ½-mile west of the subject site at 4016 E. Forest Pleasant Place.
 - Case **BA2001089** was a request for a variance to permit an existing structure housing animals to setback 17 feet from the side (east) property line where 100 feet is the minimum required. This request was approved with stipulations by the Board of Adjustment. This property is located approximately ½-mile northwest of the subject site at 4227 East Ashler Hills Drive.

Plan Analysis:

- *24. This is a request for multiple variances for existing detached accessory structures. The applicant is requesting three separate variances for a horse shade, storage building/garage and (tack) shed. All three of these buildings are located too close to a side (north and south) property line. The applicant states that the structures were already on the property when it was purchased and that since purchasing the property

the applicant relocated the horse shade to its present location. There is a small wash, as evidenced in the revised site plan that may have influenced the placement of the storage building/garage and did influence the owner's placement of the horse shade. The storage building/garage and the tack shed were been built sometime after 1992. These requests came about as the result of staff review of a proposed pool permit. The review revealed these unpermitted structures that do not meet zoning requirements.

- *25. The Board of Adjustment heard this case on December 14, 2005 and voted to deny the requested variances. On January 11, 2006, the applicant's counsel requested the case be reheard based on additional information regarding the on-site wash. The BOA voted to rehear the case.
- *26. The first request is to permit an existing detached accessory structure (horse shade) to setback five feet from the side (south) property line where 30 feet is the minimum required in the Rural-43 zoning district. This structure measures approximately 50 feet in length and 15 feet in width for a total area of approximately 750 square feet. The applicant has stated that this shade structure was relocated following purchase of the property. Staff could find no evidence of building permits issued for this structure and it appears to have been erected at its current location sometime in or around 2003. There is a small on-site wash that is located just to the north of the structure that the applicant states affected the placement of the structure. The applicant also placed the horse shade in its current location to reduce the impact on mature trees in that area.
- *27. Staff continues to believe that there are available alternatives to this variance request. The applicant could relocate this shade structure at the front of the horse arena within the building envelope or entirely in the rear yard in a north/south orientation. Since these alternative locations remain available for the horse shade, staff must recommend denial of request number one.
- *28. The second variance request is to permit an existing detached accessory structure (storage shed/garage) to setback five feet from the side (south) property line where 30 feet is the minimum required. This structure was built prior to the applicant's purchase of the subject property. The applicant has provided a revised site plan showing a small wash adjacent to the storage shed/garage. The wash is approximately 12 feet to the west of the structure and turns slightly to the northwest at the back of the storage shed/garage. The storage shed/garage is 23 feet long and 16 feet wide and approximately 368 square feet. The structure has a finished adobe exterior and a small covered area at the rear. As with the horse shade in variance request number one, staff could find no evidence of building permits either sought or issued for this structure. Had the structure originally been built further to the west and north it could have been built in the building envelope. It should be noted that the neighboring property owner has a large pole barn structure almost immediately adjacent to this structure and that neither is out of character with the surrounding area.

- *29. Unlike the first variance request, there are no viable alternatives for variance request number two. The structure is permanent, too distant from the primary structure to be attached, and it would be difficult to move. The applicant did not build this structure but unfortunately, without approval of this variance, there is no alternative other than moving/removing the unpermitted structure. The applicant is seeking an as-built permit for the storage shed/garage and other structures contingent on approval of this variance request. Staff does understand the dilemma the applicant is in regarding this structure. The storage shed/garage was in place prior to the applicant purchasing the property and appears to have been in its current location for at least 10 years. As there are no physical and only minor topographical hardships present, staff must continue to recommend denial of request number two.
- *30. Variance request number three is to permit an existing detached accessory structure (shed) to setback 4 feet from the side (north) property line. As with the previous requests, staff could find no evidence of any permits being issued to a prior owner for this structure. The (tack) shed is 20 feet long and 12 feet wide with a total area of approximately 240 square feet and located in the northeastern corner of the site. As with variance request number two, there are no alternatives available other than removal of the existing tack shed. The shed could be moved to another location but because of its permanent nature it would be difficult. The small on-site wash did not affect placement of this structure. Again, there are no physical or topographical hardships present, so staff continues to recommend denial of request number three.
- *31. Staff is sympathetic to the owner's requests, but is unable to find a specific hardship that would justify granting these variances. Any hardship is self-created by this and the previous owner's failure to obtain zoning clearances/building permits for the accessory structures in question. The site is relatively flat and free of any notable topographic features, only the small wash may have restricted the location of to of the three accessory structures. In addition, the property is a full acre permitting adequate room to locate the structures elsewhere within the buildable portions of the property. Staff recommends denial of all three variance requests.

Recommendation: (BA2005170)

32. Staff recommends **denial** of these variance requests based on the following:
- There is no hardship associated with these requests. Any hardship in this case is self-created due to the failure to obtain permits for the structures in question.
 - There is a reasonable use and enjoyment of the property without the requested variances.
 - The requests conflict with the intent of the Zoning Ordinance and may have a negative impact on surrounding properties.

- *33. If the Board finds that a reasonable use of the property cannot be made without these variances, then these requests may be approved, subject to the following stipulations:
- a) General compliance with the site plan stamped received March 24, 2006.
 - b) The owner shall obtain all necessary permits and/or clearances for the as-built structures within 120 days of Board approval.

mjlw

Attachments: Case Map BA2005170
Zoning Map
Assessor Map
Original Site Plan (November 7, 2005)
* Revised Site Plan (March 24, 2006)
Application
Supplemental Questionnaire (2 pages)
Letters of Support (3 pages)
Environmental Services Memorandum
* Staff Rehearing Request
* Combs Law Group Rehearing Request Letter
* Weber E-mail
Photographs (3 pages)
* Applicant Photographs (3 pages)